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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

U.S. Patent No.: 7,019,030 B2 (U.S. application no. 10/622,618, filed July 17, 2003)

Issued: March 28, 2006

Inventor(s): Muller et al.

For: IMMUNOTHERAPEUTIC AGENTS

Attorney Docket No.: 9516-200-999

(CAM: 501872-999199)

**REQUEST FOR CERTIFICATE OF CORRECTION  
UNDER 37 C.F.R. §1.322**

**Attention Certificate of Correction Branch**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**Certificate**  
**MAY 04 2006**  
**of Correction**

Sir:

Patentee hereby respectfully requests the issuance of a Certificate of Correction in connection with the above-identified patent. The correction is listed on the attached Form PTO-1050.

The error was made by the United States Patent and Trademark Office ("USPTO") in connection with the above patent, wherein at:

claim 18, column 32, line 9, please replace "(B)-" with -- (E)- --.

Enclosed is a copy of a Response to Office Action Under 37 C.F.R. § 1.116 filed in the USPTO in connection with the above-identified patent application on June 27, 2005 (the "Response") evidencing the corrections in issued claim 18 (*i.e.*, claim 40 in the Response) as set forth above. Further enclosed is a copy (both sides) of a return-receipt postcard evidencing receipt of the Response by the USPTO on June 27, 2005.

**MAY 04 2006**

No fee is believed to be due in connection with this request since the error was made by the USPTO. Should any fees be required, however, please charge such fees to Jones Day Deposit Account No. 50-3013. Please issue a certificate of correction as soon as possible.

Date: April 27, 2006

Respectfully submitted,

*Anthony M. Insogna, Reg. No. 35,203*

*By: Michael J. Bruner, Reg. No. 47,458*

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MAY 04 2006

# UNITED STATES PATENT AND TRADEMARK OFFICE

## CERTIFICATE OF CORRECTION

PATENT NO. : 7,019,030 B2  
 DATED : March 28, 2006  
 INVENTOR(S) : Muller et al.

It is certified that an error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

At claim 18, column 32, line 9, please replace "(B)-" with -- (E)- --.

MAILING ADDRESS OF SENDER:  
**JONES DAY**  
 222 East 41st Street  
 New York, New York 10017  
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FORM PTO 1050

PATENT NO. 7,019,030 B2

No. of add'l. copies  
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MAY 04 2006

ATI: 2221376.1



Express Mail No **EV 452 775 546 US**

Date Mailed: June 27, 2005

Serial No.: 10/622,618

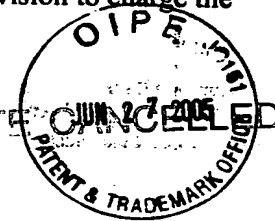
Filed: July 17, 2003

Inventor: Muller *et al.*

For **NOVEL IMMUNOTHERAPEUTIC AGENTS**

1. Request for Continued Examination (RCE) (in duplicate) with provision to charge the required fee to Jones Day Deposit Account No. 50-3013;
2. Response to Office Action Under 37 C.F.R. § 1.116;
3. Terminal Disclaimer Under 37 C.F.R. § 1.321(c) with provision to charge the required fee to Jones Day Deposit Account No. 50-3013;
4. Revocation and Power of Attorney;
5. Supplemental Information Disclosure Statement; and
6. List of References Cited by Application.

MAIL DATE CANCELLED



File no.: 9516-200-999 (CAM No.: 501872-999199) Sender: (AMI/MJB)



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Express Mail No.: **EV 452 775 546 US**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application of:	Muller <i>et al.</i>	Confirmation No.:	2627
Serial No.:	10/622,618	Art Unit:	1626
Filed:	July 17, 2003	Examiner:	R. Anderson
For:	NOVEL IMMUNOTHERAPEUTIC AGENT	Attorney Docket No:	9516-200-999 (CAM: 501872-999199)

**RESPONSE TO OFFICE ACTION UNDER 37 C.F.R. § 1.116**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This responds to the Office Action mailed April 28, 2005 in connection with the above-identified application. Applicants concurrently submit herewith: i) a Terminal Disclaimer Under 37 C.F.R. § 1.321(c) (with provision for the required fee); ii) a Revocation and Power of Attorney; iii) a Supplemental Information Disclosure Statement Under 37 C.F.R. §§ 1.56 and 1.97, including an accompanying List of References Cited by Applicant, listing references A01-A74, B01 to B15 and C01 to C37; and iv) a Request for Continued Examination Under 37 C.F.R. § 1.114 with provision for the required fee (in duplicate).

**Amendments to the Claims** are reflected on the listing of claims that begins on page 2 of this paper.

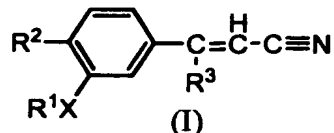
**Remarks** begin on page 6 of this paper.

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### Amendments to the Claims

The following listing of claims will replace all prior versions and listings of claims in this application.

1. (Previously Presented) A substantially pure (E)-compound, a substantially pure (Z)-compound, or a mixture of (E)- and (Z)-compounds having the formula (I):



wherein:

X is -O-, and R<sup>1</sup> is any alkyl of up to 10 carbon atoms, any monocycloalkyl of up to 10 carbon atoms, any polycycloalkyl of up to 10 carbon atoms, or any benzocyclic alkyl of up to 10 carbon atoms;

R<sup>2</sup> is nitro, cyano, trifluoromethyl, carbethoxy, carbomethoxy, carbopropoxy, acetyl, carbamoyl, acetoxo, carboxy, hydroxy, amino, lower alkyl, lower alkoxy, or halo; and R<sup>3</sup> is (i) phenyl unsubstituted or substituted with 1 or more substituents wherein each substituent is independently a nitro, a cyano, a halo, a trifluoromethyl, a carbethoxy, a carbomethoxy, a carbopropoxy, an acetyl, a carbamoyl, a carbamoyl substituted with an alkyl of 1 to 3 carbon atoms, an acetoxo, a carboxy, a hydroxy, an amino, an amino substituted with an alkyl of 1 to 5 carbon atoms, an alkyl or cycloalkyl of 1 to 10 carbon atoms, or an alkoxy or cycloalkoxy of 1 to 10 carbon atoms; or (ii) phenyl substituted with 1 or more substituents wherein each substituent is independently an alkylidenemethyl of up to 10 carbon atoms, a cycloalkylidenemethyl of up to 10 carbon atoms, a phenyl, or a methylenedioxy.

2. (Canceled).

3. (Currently Amended) The compound ~~of~~ or mixture of claim 1, wherein:

R<sup>2</sup> is nitro, cyano, trifluoromethyl, amino, lower alkyl, lower alkoxy, or halo.

4. (Currently amended) The compound ~~of~~ or mixture of claim 1, wherein:

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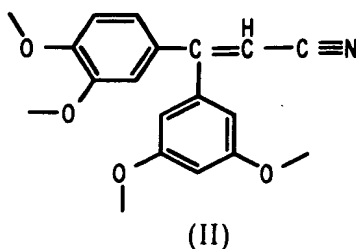
$R^1$  is alkyl of up to 10 carbon atoms; and  
 $R^2$  is trifluoromethyl; lower alkyl, or lower alkoxy.

5. (Previously Presented) The compound of claim 4, wherein:

$R^1$  is methyl or ethyl; and

$R^2$  is methoxy or ethoxy.

6. (Original) A substantially pure (E)-compound, a substantially pure (Z)-compound, or a mixture of (E)- and (Z)-compounds having the formula (II):



7. (Previously Presented) The compound or mixture of claim 1 which is:

3,3-bis-(3,4-dimethoxyphenyl)acrylonitrile;  
3,3-bis-(3-ethoxy-4-methoxyphenyl)acrylonitrile;  
3-(3-propoxy-4-methoxyphenyl)-3-phenylacrylonitrile;  
3-(3-ethoxy-4-methoxyphenyl)-3-phenylacrylonitrile;  
3,3-bis-(3-cyclopentoxo-4-methoxyphenyl)acrylonitrile;  
3-(3-cyclopentoxo-4-methoxyphenyl)-3-phenylacrylonitrile;  
3-(3,4-dimethoxyphenyl)-3-phenylacrylonitrile;  
3-(3,4-dimethoxyphenyl)-3-(3',5'-dimethoxyphenyl)acrylonitrile;  
3-(3,4-dimethoxyphenyl)-3-(3-ethoxy-4-methoxyphenyl)acrylonitrile;  
3-(3,4-dimethoxyphenyl)-3-(3'-nitrophenyl)acrylonitrile;  
3-(3'-aminophenyl)-3-(3,4-dimethoxyphenyl)acrylonitrile;  
3-(3,4-dimethoxyphenyl)-3-(4-nitrophenyl)acrylonitrile;  
3-(4-aminophenyl)-3-(3,4-dimethoxyphenyl)acrylonitrile;  
3-(4-biphenyl)-3-(3,4-dimethoxyphenyl)acrylonitrile;  
3-(3,4-dimethoxyphenyl)-3-(4'-fluorophenyl)acrylonitrile;  
3-(3,4-dimethoxyphenyl)-3-(3,4-methylenedioxyphenyl)acrylonitrile;  
3-(3,4-diethylphenyl)-3-(3,4-dimethoxyphenyl)acrylonitrile; or

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3-(3,4-dimethoxyphenyl)-3-(2,5-dichlorophenyl)acrylonitrile.

8-11. (Canceled).

12. (Original) A pharmaceutical composition comprising a compound or mixture according to claim 1.

13-15. (Canceled).

16. (Previously Presented) A compound of claim 1, which is an (E)-compound.

17. (Previously Presented) A compound of claim 1, which is an (Z)-compound.

18. (Original) A mixture of claim 1 comprising both (E)- and (Z)-compounds.

19-22. (Canceled).

23. (Original) A pharmaceutical composition comprising a compound or mixture according to claim 4.

24-26. (Canceled).

27. (Previously Presented) A compound of claim 4, which is an (E)-compound.

28. (Previously Presented) A compound of claim 4, which is an (Z)-compound.

29. (Original) A mixture of claim 4 comprising both (E)- and (Z)-compounds.

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30-33. (Canceled).

34. (Original) A pharmaceutical composition comprising a compound or mixture according to claim 6.

35-37. (Canceled).

38. (Previously Presented) A compound of claim 6, which is an (E)-compound.

39. (Previously Presented) A compound of claim 6, which is an (Z)-compound.

40. (Original) A mixture of claim 6 comprising both (E)- and (Z)-compounds.

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### **Remarks**

Claims 1, 3-7, 12, 16-18, 23, 27-29, 34, and 38-40 are pending in this application. Claims 3 and 4 have been amended to correct typographical errors wherein "of" has been replaced with "or." No new matter has been added.

Applicants reserve their rights to pursue any unclaimed subject matter in the present application in one or more divisional, continuation, or continuation-in-part applications.

### **The Rejection Under Judicially Created Obviousness-Type Double Patenting**

On pages 2-12 of the Office Action, various pending claims are rejected under the judicially-created doctrine of obviousness-type double patenting. In particular, certain pending claims are rejected over U.S. Patent No. 5,929,117 ("the '117 patent") under the judicially-created doctrine of obviousness-type double patenting. Applicants submit herewith a Terminal Disclaimer Under 37 C.F.R. § 1.321(c) (with provision for the required fee) disclaiming the terminal part of any patent granted on the above-identified application which would extend beyond the expiration date of the '117 patent as described in the attached Terminal Disclaimer.

Accordingly, Applicants respectfully submit that the rejection under the judicially-created doctrine of obviousness-type double patenting over the '117 patent has been overcome and must be withdrawn.

### **Conclusion**

Applicants respectfully request that the above amendments and remarks be entered in the present application file. No fee is believed to be due in connection with this Response other than that in connection with the Supplemental Information Disclosure Statement and Terminal Disclaimer; however, in the event that any additional fee is due, please charge the required fee to Jones Day Deposit Account No. 50-3013.

Date: June 27, 2005

Respectfully submitted,

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